

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

IN RE: JOHNSON & JOHNSON	)	
TALCUM POWDER PRODUCTS	)	
MARKETING, SALES PRACTICES AND	)	Civil Action No.: 16-MD-2738-FLW-LHG
PRODUCTS LIABILITY LITIGATION	)	
	)	
	)	MDL No. 2738
	)	
	)	<b>ORDER REGARDING MEHAFFY</b>
	)	<b>WEBER MEMO</b>

**THIS MATTER** having come before the undersigned, Joel A. Pisano, U.S.D.J. (Ret.) appointed as Special Master by Court Order; and after review of submissions on behalf of each party and hearing oral argument of counsel, the Court makes the following findings:

1. Paul Heyburn produced a memorandum for Gene Williams and Sandra Clark dated March 3, 1998, bearing the subject “Johnson & Johnson – Skillman Document Review” (the “Mehaffy Weber memo”).
2. The Mehaffy Weber memo was prepared by Johnson & Johnson’s outside counsel in relation to *Coker v. Bill Thames Pharmacy Inc., et al.* (No. 13-157746) (the “*Coker* Litigation”).
3. The Mehaffy Weber memo is protected by attorney work product and attorney-client privilege.
4. In or around April 2011, a copy of the Mehaffy Weber memo was inadvertently produced to Plaintiffs without a confidential designation during discovery in *Berg v. Johnson & Johnson* (the “*Berg* Litigation”), a case then pending in the District of South Dakota.
5. Johnson & Johnson did not waive the attorney work product privilege with respect to the

Mehaffy Weber memo.

6. Subsequently, the Mehaffy Weber memo was relied upon in the present litigation.
7. In or around April 2017, Johnson & Johnson became aware of disclosure of the Mehaffy Weber memo, and sent “claw-back letters” to Plaintiffs in receipt of the Mehaffy Weber memo. Accordingly,

IT IS on this \_\_\_\_ day of \_\_\_\_\_ 2017 hereby:

ORDERED as follows:

1. Plaintiffs shall immediately return to Johnson & Johnson or destroy all currently existing copies of the Mehaffy Weber memo, and will take any future actions necessary to protect the confidential nature of the Mehaffy Weber memo.
2. Plaintiffs’ counsel shall certify that all copies of the Mehaffy Weber memo have been destroyed or have been returned to Johnson & Johnson.
3. Plaintiffs shall not reference or rely on the Mehaffy Weber memo in connection with the above-captioned action.

DATED: October 13, 2017

s/Joel A. Pisano

Joel A. Pisano, U.S.D.J. (Ret.)